

agents, and particularly by the other defendants, entered upon the lands of the plaintiff, cut down his trees, and dug up his garden, meadows, fields, grass, and grain; and have so entirely destroyed his right of way that he cannot enter upon and depart from his lands as he was wont and has a right to do; that the company have neglected and refused to cause a jury to be summoned to assess the damages he has and is likely to sustain by their acts; that a pretended inquisition has been taken by a jury convened under a warrant issued by a person who was not in fact at the time a justice of the peace; that the supposed inquisition is defectively executed in form and substance, and is invalid and void; and that its return has been improperly withheld and delayed at the instance of the corporation; and when returned, a decision upon it was unjustly caused to be postponed by the body politic. Whereupon the bill prayed, that the company might be restrained by injunction from committing any further injury to his lands, &c.

BLAND, C., 17th May, 1831.—Ordered, that writs of subpoena and injunction issue as prayed by the foregoing bill of complaint. And it is further ordered, that at any time after the filing of the answers of the defendants, the Court will hear a motion to dissolve the said injunction; provided, that the defendants give to the plaintiff or his solicitor, five days notice thereof. And the register is directed to endorse a copy of this order on the writ of injunction, that it may be served therewith on the defendants.

To this bill Isaac M. Cheesborough, called in the bill Charles Cheesborough, and the other defendants, put in their joint and several answer, on the 30th of May, 1831, in which they stated that the *defendant Winchester was the president of the company; that the defendant McNeill was their principal 387 engineer; and that the other defendants were their agents; that the company had, under authority of the Act of 1827, ch. 72, by which they were incorporated, located their railroad over the land of the plaintiff; and were proceeding to construct it as alleged; that in repeated conversations with the plaintiff, he was assured that he should have a jury convened to assess the damages done to his land, whenever he thought proper; but his demands were so extravagant, that the company could come to no agreement with him, in consequence of which a jury was summoned and an inquisition taken in the manner prescribed by the Act of incorporation; upon which the jury determined that the plaintiff would sustain no damage whatever by the railroad passing over his land; that at the place where the plaintiff's way, spoken of in his bill, passed over the route of the railroad, it became necessary to make a perpendicular cut of many feet, and the greater part through solid rock; and consequently, his right of way was turned in